

FILED
UNITED STATES DISTRICT COURT CLERKS OFFICE

2005 OCT -3 P 4:36

BAHIG F. BISHAY
Claimant

AMERICAN ARBITRATION ASSOCIATION,
Dispute Resolution Services Worldwide;

and

BRIGHTON AVENUE ASSOCIATES, LLC
Respondent

U.S. DISTRICT COURT
DISTRICT OF MASS.

05CV 11771 NMG

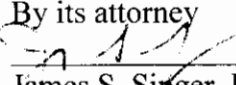
**DEFENDANT BRIGHTON AVENUE ASSOCIATES, LLC'S MOTION TO
DISMISS PLAINTIFF BAHIG F. BISHAY'S APPLICATION-COMPLAINT
PURSUANT TO U.S. ARBITRATION ACT-TITLE 9**

The Defendant/Respondent Brighton Avenue Associates, LLC ("BAA") hereby moves this Honorable Court to dismiss the Plaintiff/Claimant Bahig F. Bishay's ("Bishay") Application-Complaint Pursuant to U.S. Arbitration Act Title 9 ("Application-Complaint"). The grounds of the Motion are: (1) the federal courts do not have subject matter jurisdiction over this matter; (2) the Application-Complaint fails to state a claim upon which relief can granted as required by Fed.R.Civ.P. 12(b)(6); (3) Bishay has failed to allege fraud with particularity as required by Fed.R.Civ.P. 9(b); (4) Bishay has failed to file his request to vacate the arbitration award within thirty days of the discovery of alleged fraud as required by G.L.c. 251, § 15; (5) there was insufficient service of process; and (5) the Application-Complaints seeks relief that is not authorized by either the Federal Arbitration Act or the Massachusetts statute governing arbitration.

Accompanying this Motion, pursuant to Local Rule 7.1(B)(1), is BAA's memorandum of law setting forth its statement of reasons in support of this Motion.

Brighton Avenue Associates, LLC.
The Defendant/Respondent,

By its attorney


James S. Singer, Esq.

B.B.O. #464560

Rudolph Friedmann LLP

92 State Street

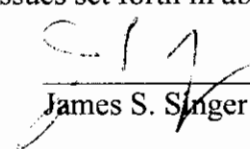
Boston, MA 02109

(617) 723-7700

Dated: 10/3/05

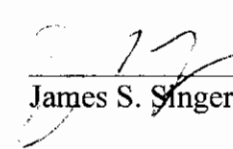
LOCAL RULE 7.1(A)(2) CERTIFICATION

I, James S. Singer, counsel for the Defendant/Respondent Brighton Avenue Associates, LLC do hereby certify that pursuant to Local Rule 7.1 (A)(2) of the Federal District Court of Massachusetts that I have conferred with Plaintiff/Claimant Bahig F. Bishay and attempted in good faith to resolve or narrow the issues set forth in above Motion.


James S. Singer

CERTIFICATE OF SERVICE

I, James S. Singer, counsel for the Defendant/Respondent Brighton Avenue Associates, LLC hereby certify that a true copy of the above document was served upon each party appearing pro se and the attorney of record for each other party by mail on October 3, 2005


James S. Singer